

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ALEXANDER SIMONE LEWIS,)	
)	
Plaintiff,)	
)	
vs.)	
)	Case No. 4:08CV683HEA
SGT. JOHN FRANK, et al.,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO COMPEL

COME NOW Defendants Frank, Daut, Martin, Favazza and Burle, by and through their undersigned counsel, and for their Motion to Compel, state as follows:

1. On or about April 29, 2009, Defendants served on Plaintiff their Second Request for Production of Documents to Plaintiff ("Defendants' request"). Plaintiff's response was due on or about June 1, 2009. Plaintiff has not responded to Defendant's request to date.

2. Under the Court's Case Management Order (# 21), all discovery in this matter was to be completed by January 18, 2010.

3. Unless Plaintiff produces the documents referenced in Defendant's request, Defendants will be prejudiced in their ability to prepare their defense at trial.

4. Defendants' counsel has conferred with Plaintiff's counsel via telephone on multiple occasions, including yesterday and during the week of January 18, 2010, in a good faith effort to resolve this dispute, but Plaintiff has not responded to Defendants' request to date¹.

¹ Plaintiff's counsel has stated to Defendants' counsel that Plaintiff will respond to Defendants' request, which Defendants' counsel has no reason to doubt, but the Court's Case Management Order mandates that Motions to Compel be filed no later than today so Defendants cannot wait any further to file this motion.

WHEREFORE, Defendants John Frank, Patrick Daut, Ronald D. Martin, Thomas Favazza and Steven M. Burle respectfully request that this Court issue an Order compelling Plaintiff's immediate response to Defendants' Second Request for Production of Documents to Plaintiff, and for any further relief this Court deems just and proper.

Respectfully submitted,

CHRIS KOSTER

Attorney General

/s/ Robert J. Isaacson

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2010, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon:

Larry D. Hale

HALE LAW FIRM

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Attorney for Plaintiff

/s/ Robert J. Isaacson

Assistant Attorney General